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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,028	07/24/2003	Alexandre A. N. Baptista	37469-8002.US01	3363
22918	7590	10/05/2004	EXAMINER	
PERKINS COIE LLP			WALBERG, TERESA J	
P.O. BOX 2168				
MENLO PARK, CA 94026			ART UNIT	PAPER NUMBER

3742

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/628,028	BAPTISTA, ALEXANDRE A. N.	
	Examiner	Art Unit	
	Teresa J. Walberg	3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-78 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25-40 and 42-56 is/are allowed.
- 6) ☒ Claim(s) 1,12-14,22,41,57 and 66-69 is/are rejected.
- 7) ☒ Claim(s) 2-11,15-21,23,24,58-65 and 70-78 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 67 and 68 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 67 refers to "the first intermediate contact" and "the second intermediate contact", but claim 57, from which it depends, does not provide antecedent basis for these limitations. It appears that claim 67 may have been intended to depend from a different claim. Clarification is required.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 41 is rejected under 35 U.S.C. 102(b) as being anticipated by Marshall (4,549,387).

Marshall discloses means for sealing a first portion of a plastic bag (seam 26 as shown in Fig. 2) and a second portion of a plastic bag (seam 28), including first means for activating the means for sealing for the first portion (26), second means for activating the means for sealing for the second portion (28), and means for switching between the

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first means for activating and the second means for activating. See col. 4, line 60-col. 5, line 19.

3. Claims 1, 13, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Hartesveldt et al (3,148,269).

Van Hartesveldt et al disclose (see Fig. 3) a first electrode coupled to a first voltage terminal (66), a second electrode coupled to a second voltage terminal (64), a heating strip having a first end and a second end, the first end coupled to the first voltage terminal the second end coupled to the second voltage terminal wherein the first electrode is selectively connectable to the heating strip at a first intermediate contact disposed between the first and second ends and the second electrode is selectively connectable to the heating strip at a second intermediate contact disposed between the first intermediate contact and the second end. The terminals by switches 62 are considered to be the intermediate contacts.

With respect to claim 13, Van Hartesveldt et al show switches (62).

With respect to claim 14, Van Hartesveldt et al show controllers (58 and 54).

4. Claim 57 is rejected under 35 U.S.C. 102(b) as being anticipated by Hutton et al (5,825,974).

Hutton et al disclose an apparatus for selective application of electric voltage to a first voltage reception point and a second voltage reception point using a first voltage terminal and a second voltage terminal including a first electrode (20) coupled to the

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first terminal (upper side of B), a second electrode (18) coupled to the second terminal (lower side of B) wherein the first electrode (20) is connectable to the first voltage reception point (24) and the second electrode (18) is connectable to the second voltage reception point (22).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 66 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hutton et al (5,825,974).

Hutton et al, as discussed above, disclose the claimed structure with the exception of the voltage at the terminal being 10 volts.

However, it would have been obvious to use any suitable voltage for the power source based on the intended use of the device.

7. Claim 69 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marshall et al (4,549,387) in view of Lorenz et al (2,749,686).

Marshall et al, as discussed above, disclose the claimed method with the exception of vacuuming gasses from the bag.

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Lorenz et al teach vacuuming gasses from a bag that is being heat sealed.

See col. 4, lines 13-47.

It would have been obvious in view of Lorenz et al to vacuum gases from the bag of Marshall et al before sealing the final seam to make the product in the bag more compact.

8. Claims 12 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Hartesveldt et al (3,148,269).

Van Hartesveldt et al, as discussed above, disclose the claimed structure with the exception of the voltage at the terminal being 10 volts and a manually operated activation component coupled to the controller.

However, it would have been obvious to provide the apparatus of Van Hartesveldt et al with a manually operated activation component coupled to the controller so that the user would have some way to turn the device off, even if only by unplugging it. It would have been obvious to use any suitable voltage for the power source based on the intended use of the device.

9. Claims 25-40 and 42-56 allowed.

10. Claims 2-11,15-21,23,24,58-65, and 70-78 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Unger is cited to show a bag with overlapping seams.

Hallberg is cited to show switching of terminals.

Metz and Harker are cited to show heat sealing devices.

Hishiki et al is cited to show a resistor with multiple contacts.

Denhard is cited to show a switch with a swing arm.

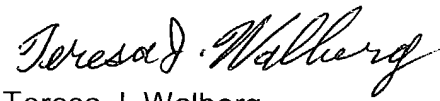
Baumeister et al is cited to show a switch with a gear and pinion.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Teresa J. Walberg whose telephone number is 703-308-1327. The examiner can normally be reached on M-F 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 703-305-5766. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in cursive script, reading "Teresa J. Walberg".

Teresa J. Walberg
Primary Examiner
Art Unit 3742

tjw